

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Bobby T. Sheppard,	:	<i>Death Penalty Case</i>
	:	
Petitioner,	:	Case No. 1:00cv493
	:	
-vs-	:	Judge Walter Herbert Rice
	:	
Margaret Bagley, Warden,	:	Magistrate Judge Merz
	:	
Respondent.	:	

**MOTION TO SUBSTITUTE COUNSEL
FOR PETITIONER BOBBY T. SHEPPARD**

Kyle E. Timken, Assistant State Public Defender, requests permission to substitute as appointed counsel for Timothy R. Payne under the CJA guidelines for counsel. The reason for this request is that Mr. Payne no longer works with the Office of the Ohio Public Defender, nor does he continue to practice law in the state of Ohio.

Mr. Timken began working for the Ohio Public Defender's Office on May 8, 2000 and has worked exclusively on death penalty cases since that time. As an Assistant State Public Defender, Mr. Timken represents nine capital clients, including seven in federal proceedings and two in state post-conviction actions. Mr. Timken currently represents six of his clients in federal habeas proceedings and has filed pleadings in the Southern District of Ohio, Northern District of Ohio, Sixth Circuit Court of Appeals, and the United States Supreme Court. Additionally, Mr. Timken has previously been permitted to substitute as counsel for Petitioner Kenneth Smith, 1:03-cv-702, before this Court.

In regard to the current procedural posture of this case, Mr. Timken has represented seven capital clients and one non-capital client before the Sixth Circuit Court of Appeals. Mr. Timken has also familiarized himself with the factual and legal issues of this case, which will ensure effective continuity of representation for Petitioner Sheppard.

Mr. Timken, through the Office of the Ohio Public Defender, respectfully requests to join Douglas A. Funkhouser as counsel for Petitioner Bobby T. Sheppard.

Respectfully submitted,

DAVID H. BODIKER
Ohio Public Defender

/s/Kyle E. Timken
KYLE E. TIMKEN (0071381)
Assistant State Public Defender
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was electronically filed this 12th day of January, 2007. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Kyle E. Timken
KYLE E. TIMKEN (0071381)
Assistant State Public Defender